

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 Victor Tagle, Sr.,

5 Plaintiff

6 v.

7 Core Civic America, et al.,

8 Defendants

Case No.: 2:18-cv-00544-JAD-NJK

Order Dismissing Action

[ECF Nos. 7, 9, 10, 13, 14, 15, 17, 19, 22]

9 Pro se plaintiff Victor Tagle, Sr., brings this “tort action” for events that allegedly
10 occurred during his incarceration with the Nevada Department of Corrections.¹ On June 1, 2018,
11 I denied his application to proceed *in forma pauperis* because he has three strikes under 28
12 U.S.C. § 1915(g) and failed to demonstrate that he was under imminent danger of serious
13 physical injury.² I gave him until June 30, 2018, to pay the full \$400 filing fee.³ I expressly
14 warned him that his case would be dismissed if he failed to pay the filing fee by that deadline.⁴
15 The deadline has passed, and Tagle has not paid the filing fee.⁵ Though he filed an “Answer to
16 Court’s Order,”⁶ it fails to demonstrate an imminent danger of serious physical injury.

17 District courts have the inherent power to control their dockets and “[i]n the exercise of
18 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.⁷ A
19 court may dismiss an action with prejudice based on a party’s failure to prosecute an action,

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21 ¹ ECF No. 1-1 (tort action).

22 ² ECF No. 16.

23 ³ *Id.*

24 ⁴ *Id.*

25 ⁵ Tagle has also filed a slew of other motions. (ECF Nos. 7, 9, 10, 13, 14, 15, 17, 19, 22). None
26 of these motions demonstrates that Tagle is in imminent danger of serious physical injury. I
deny these motions as moot.

27 ⁶ ECF No. 20.

28 ⁷ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

1 failure to obey a court order, or failure to comply with local rules.⁸ In determining whether to
2 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with
3 local rules, the court must consider several factors: (1) the public's interest in expeditious
4 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
5 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
6 availability of less drastic alternatives.⁹

7 I find that the first two factors—the public's interest in expeditiously resolving the
8 litigation and the court's interest in managing its docket—weigh in favor of dismissing this case.
9 The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury
10 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
11 prosecuting an action.¹⁰ The fourth factor is greatly outweighed by the factors in favor of
12 dismissal, and a court's warning to a party that his failure to obey the court's order will result in
13 dismissal satisfies the consideration-of-alternatives requirement.¹¹ Tagle was warned that his
14 case would be dismissed if he failed to pay the \$400 filing fee in full by June 30, 2018.¹² So,
15 Tagle had adequate warning that his failure to pay the fee would result in this case's dismissal.

16 Conclusion

17 Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED** without
18 prejudice based on Tagle's failure to pay the full filing fee in compliance with this court's June
19 1, 2018, order.

20 ⁸ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
21 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
22 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–
23 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to
24 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
25 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

26 ⁹ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
27 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

28 ¹⁰ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

¹¹ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

¹² ECF No. 16.

1 IT IS FURTHER ORDERED that all pending motions [ECF Nos. 7, 9, 10, 13, 14, 15, 17,
2 19, and 22] are **DENIED** as moot.

3 The **Clerk of Court** is directed to **ENTER JUDGMENT** accordingly and **CLOSE**
4 **THIS CASE**.

5 Dated: July 9, 2018

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7 U.S. District Judge Jennifer A. Dorsey
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